

PCT
~~414 PCT/EP 97/03245~~ 46 FEB 1999

PATENT APPLICATION

ATTORNEY DOCKET
NO. 64978

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Biedermann et al.

Appln. No.: PCT/EP97/03245

Filed: 20 June 1997

Title: PYRIDYL ALKENE- AND
PYRIDYL ALKINE-ACID
AMIDES AS CYTOSTATICS
AND IMMUNOSUPPRESSIVES

Group

Art Unit: N/A

Examiner: N/A

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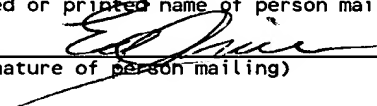
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Honorable Commissioner of Patents
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Attention: Assistant Commissioner for Patents

Box DAC

Washington, D.C. 20231

PETITION UNDER 37 C.F.R. §1.137(b) TO REVIVE
AN INADVERTENTLY AND UNINTENTIONALLY ABANDONED APPLICATION

Dear Sir:

Applicants respectfully petition the Commissioner under 37 C.F.R. §1.137(b) to revive the aforementioned Patent Cooperation Treaty application for filing in the United States as an elected country which was inadvertently and unintentionally abandoned for failure to prosecute and that the delay in prosecution and payment of fees was unintentional.

The above-identified PCT application, International Application No. PCT/EP97/03245, was filed 20 June 1997 (hereafter "the PCT Application"). The PCT Application claimed priority from German Application No. 196 24 659.8,

filed June 20, 1996 and designated the United States as one of the States within which a national patent application was sought (Exhibit A: PCT/IB/301). Pursuant to 35 U.S.C. §363, the PCT application thus has the same effect as an application filed in the United States from its international filing date. A Demand for International preliminary examination was filed and notice of such was communicated to the U.S. Patent and Trademark Office. (Exhibit B: PCT/IB/332) Accordingly, the payment of filing fees and completion of National Phase processing was due by 20 December 1998.

The PCT application was forwarded to the undersigned for filing in the United States prior to the 20 December 1998 due date for National stage filing.

Unfortunately, the undersigned inadvertently and unintentionally failed enter the national stage in the United States by unintentionally failing to pay the basic national fee to the United States Patent and Trademark Office (PTO) within the 30-month period set forth in 37 C.F.R. §1.495. As a result, the application, for purposes of the United States, became abandoned on 21 December 1998 for failure to prosecute. See 35 U.S.C. §371 and 37 C.F.R. §1.468.

The inadvertent and unintentional abandonment of the application was not realized until 17 February 1999, when applicants checked on the status of applications recently filed in the U.S. Patent and Trademark Office, and discovered that the requirements of 37 C.F.R. §1.495 had not been met for the PCT application. Such discovery resulted in the immediate commencement of preparation for this Petition to Revive.

This Petition includes a proposed response comprising a form PTO-1390 "Transmittal Letter to the United States Designated/Elected Office Concerning a Filing Under 35 U.S.C. §371", a declaration signed by the inventors, and a check in the amount of \$1500.00 in payment of the Basic Fee and other fees set forth in the form PTO-1390. Such items

comprise the proposed response that would have been made had the requirements of 37 C.F.R. §1.495 been complied with in a timely manner.

Also enclosed is the petition fee under 37 C.F.R. §1.17(m)(1) in the amount of \$1,210.00. Further enclosed is an Assignment Recordation Cover Sheet, an assignment and a check for \$40.00 for the assignment recording fee under 37 C.F.R. §1.21(h).

The Commissioner is hereby authorized to charge any additional fees which may be required in this Petition under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount; unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135. A duplicate copy of this paper is enclosed.

Favorable consideration of this Petition to Revive is earnestly solicited.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By Kenneth H. Samples
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Date: February 18, 1999

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